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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/840,124

05/06/2004

David Simpson

7824030/28580

7243

26386

7590

05/05/2006

DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.

THE FINANCIAL CENTER

666 WALNUT STREET

SUITE 2500

DES MOINES, IA 50309-3993

EXAMINER

FOX, CHARLES A

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/840,124

Applicant(s)

SIMPSON ET AL.

Examiner

Charles A. Fox

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20050401</u> . | 6) <input type="checkbox"/> Other: ____. |

Information Disclosure Statement

The information disclosure statement filed April 1, 2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information lined through therein has not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what the tab material is resistant to. Glass is a hard material resistant to acids, but does not seem like a good material for use in the instant invention. Clarification is required.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear how a container longer than the minimum length can be used with the apparatus. The definition of minimum length is where the jib is fully extended and the rear of the container will not spill debris on the hoist when dumped. As such the rear may extend over the tipping point by any amount and still be considered the minimum. Clarification is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corompt in view of Duncan. Regarding claims 1, 8 and 10 Corompt US 3,892,323 teaches a device for moving containers comprising:

- a container hoist with a telescopic jib boom;

- a hydraulic cylinder for selectively retracting or extending said jib boom;

- a lever (10) actuated by a tab (18) on the long sill of the container;

wherein said tab acts to stop extension of the hydraulic cylinder when the rear of the container is in a preselected location relative to the rearmost portion of the hoist assembly. Corompt does not teach the lever as being a switch. Duncan US 3,819,888 teaches a limit switch comprising:

- an eccentric cam(22);

- a lever (8) operatively attached to said cam;

wherein when a moving machine part strikes the lever the switch cuts off power to the device moving the machine part;

wherein said lever can be adjusted such that it is held in an upright orientation by springs. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Corompt with a limit switch as taught by Duncan in order to automatically stop the jib boom such that the container is always at a

predetermined position relative the rear of the hoist assembly, thereby decreasing the chance of an operator overly stressing the stop members.

Regarding claims 2 and 3 Corompt further teaches placing the tabs on either side of the container and that said tab is metallic.

Regarding claim 4 Corompt also teaches that the tabs (18) on the container are placed such that the rear of the container will always be in a position such that dumping will not interfere with the operation of the hoist by spilling debris onto the hoist.

Regarding claim 5 Corompt also teaches that the levers act as locks for the container relative to a transport vehicle.

Regarding claims 6 and 7 Corompt also teach the device can pick up containers of the minimum specified length as well as those that are shorter than the minimum specified length.

Regarding claim 9 it is within the skill of one of ordinary skill in the art to use a limit switch as taught by Duncan to change the flow of hydraulic fluid in a closed system.

The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is: Derain 1974, Corompt 1976, Pauku 1984, Smart et al. 1994 and Koepe, Jr. et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Charles A. Fox 5-3-06

Charles A. Fox
Examiner
Art Unit 3652